

OFFICE OF CITY ATTORNEY

DATE: December 17, 1985

TO: Robert R. Ovrom, Executive Director/ City Manager

SUBJECT: Second Amendment to an Agreement Between the City of Burbank and the Redevelopment Agency Establishing Certain City-Agency Relationships

PURPOSE:

To amend that certain "Agreement Between the City of Burbank and the Redevelopment Agency of the City of Burbank Establishing Certain City-Agency Relationships," dated September 29, 1970, as amended by Redevelopment Agency Resolution No. R-40 (collectively, the "Agreement"), for the purpose of (i) qualifying the Agreement as an "Existing Obligation" of the Redevelopment Agency, as that term is defined by Assembly Bill 265 (Chapter 1135, Stats. 1985), and (ii) providing the type and detail of supporting documentation noted by the County of Los Angeles Grand Jury in its Report on Phase I Review of Operations of the Agency, dated December 5, 1985.

FACTS:

Through enactment of Assembly Bill 265 (Chapter 1135, Stats. 1985), the California Legislature has required redevelopment agencies to commence (effective January 1, 1986) to set aside 20% of their tax increment revenues from projects approved prior to 1977 for low and moderate income housing. AB 265 includes an exception to this set aside requirement in recognition of the fact that tax increment revenues from the Redevelopment Agency's projects have been pledged to retire certain existing obligations and indebtedness (the "Existing Obligations") incurred prior to January 1, 1986, the effective date of AB 265.

In order to protect the undiminished flow of tax increment revenues to meet the Agency's Existing Obligations, we have reviewed the form of the documentation which evidences the Agency's "Existing Obligations".

In our review of the existing documentation on transactions between the City and Agency, it was discovered that the form of the documentation requires amendments or additional documentation. This has been substantiated by the above-referenced County Grand Jury Report of December 5, 1985. For example, the above-referenced Agreement between the City and the Agency whereby the City has agreed to advance funds to the Agency does not specify any type of repayment schedule, providing, instead, that the advances will be repaid from tax increment revenue as funds become available. It is important to establish the indebtedness created by the Agreement as an "Existing Obligation" by amending the Agreement to provide more definite terms. Such an amendment must be executed prior to the effective date of AB 265.

ANALYSIS &
CONCLUSION:

Accordingly, the proposed Second Amendment to the Agreement, which is attached to the Resolution transmitted herewith, provides the appropriate amendments to qualify the Agreement as an "Existing Obligation" for the purpose of permitting the Agency to deposit less than 20% of its tax increment revenues into a Low and Moderate Income Housing Fund, and provides further supporting documentation relating to terms of repayment by the agency under the Agreement.

RECOMMENDATION:

If it is the desire of the Redevelopment Agency/City Council to (i) deposit less than 20% of the tax increment revenues from its redevelopment projects into the Low and Moderate Income Housing Fund so that such revenues are available to repay the advances made by the City to the Agency in accordance with the Agreement, and (ii) provide for the supporting documentation relating to terms of repayment by the Agency under the Agreement, we strongly recommend the adoption of the proposed Resolution attached hereto.



Theodore J. Reynolds
Assistant City Attorney